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Application of Labor Legislation to the Fruit and Vegetable Canning and Preserving Industry

SALIENT FACTS

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Application of Labor Legislation to the Fruit and Vegetable Canning and Preserving Industries

SALIENT FACTS

Labor legislation must be framed in general terms to insure the inclusion of all contemplated groups. In its application to specific industries, however, differences in industrial operations require consideration if the protection or benefits the law is intended to bestow on workers are to be achieved generally. It is well known that the industries of canning and preserving fresh fruits and vegetables have distinctive problems due to the uncertainty of weather conditions that affect the periods of crop maturity and the size and quality of the crop. The more than 300,000 wage earners who find some employment during the year in these industries can be benefited by labor legislation only as such legislation takes into consideration the industries' peculiar and recurrent daily and seasonal uncertainties.

While surveys of canning and preserving have been made in specific States from time to time, no current facts have been available in this period of enactment of new National labor legislation and additional State minimum-wage legislation to guide Federal and State administrators in the application of specific laws to these industries. Maximum-hour and minimum-wage laws for women and minors applicable to canning and preserving have been in effect in some States for more than 20 years. In the last 7 years, however, other States with canning and preserving plants have enacted such legislation. These food industries are included under the old age insurance and unemployment compensation provisions of the Social Security Act of 1935. The Public Contracts Act of 1936 calls for the establishment of a minimum in rates of pay and a maximum in hours of work on Government contracts, many of which include canned and preserved foods. The Fair Labor Standards Act of 1938, regulating wages and hours in industries engaged in interstate commerce, has special provisions relating to these industries.

The Women's Bureau has secured information essential to the application of these several Federal and the various State laws to canning and preserving. This was made possible by the full coopera-

tion of members of the industry and their State and National associations, who gave access to all available essential records. The study, inaugurated in 1938 prior to the enactment of the Fair Labor Standards Act, was supplemented by a follow-up survey in 1939 to secure additional facts pertinent to the interpretation of that act. The survey covered 693 plants, in 19 States, that employed in a maximum month 153,328 persons. These plants canned, preserved, cold-packed, frosted, or dried 40 percent or more of the principal products so preserved in Continental United States. In addition 4 Hawaiian pineapple canneries, employing 12,650 persons, were visited. The detailed presentation of facts concerning the location of canning and preserving plants, the products handled, length of season, numbers employed, peak loads, hours worked, hourly earnings, annual earnings, and labor costs will be found in the body of the report. There is here presented a brief summary of the application of the several Federal and State laws to these industries as revealed by the detailed study of each industry.

Application of Labor Legislation to the Canning of Vegetables and Deciduous Fruits

HOUR REGULATIONS

Effect of State Regulation.

State regulation of hours has applied to women and minors in canning plants for a longer time than other wage and hour legislation. While women comprise from about 30 percent to 70 percent of the production staff, depending on the kind of product canned, they are engaged in occupations essential to the continuous performance of canning. Their presence on the canning line is necessary for the operation of the other sections of the line; their hours affect the hours of many men employees.

Canners usually have requested special privileges or complete exemption from State hour laws. Their requests have been based on the perishability of vegetables and fruits and their inability to control crop congestion at the cannery when weather conditions bring the crop suddenly to the perfect canning stage. Though some canners have done much to prevent congestion by staggering the planting time and scattering the fields to avail themselves of different weather conditions, and, when two or more plants are operated by one firm, by distributing produce from the maturing fields to their several plants, all believe that some crop congestion is inevitable.

The survey of employment conditions in 1937, the best canning year for some time, revealed that all seasonal-product canneries have peak loads; that is, weeks in which crops reach the cannery in far greater

volume than at other times. As it is the practice to can crops when perfect, to attain the best quality and to avoid spoilage, heavy deliveries of fruits or vegetables at the cannery bring about the period of peak activity. During 1937 peak operations lasted not more than 4 weeks in the majority of plants, and on the larger number of products they lasted but 2 or 3 weeks.

In the past, States have modified their hour laws for women in several ways to meet this condition. California, Wisconsin, and Arkansas have the same daily and weekly hour maximum for canning as for other manufacturing, but canneries are permitted to employ women longer if they pay overtime for the additional hours. In California the daily hours are 8; over 8 up to 12 hours must be paid for at time and a quarter, and over 12 hours at double time. Wisconsin permits 8 emergency days of 11 hours with a 60-hour week in pea canneries and a day of 10 hours in other canneries, if time and a half is paid for daily hours in excess of 9. In Arkansas overtime may be worked by women if hours of more than 9 a day and 54 a week are paid for at time and a half, the period of overtime being limited to 90 days.

Other States extend the hours that canneries may employ women during specified periods beyond the maximum for other manufacture and do not require overtime rates. In Illinois, with an 8-hour day and a 48-hour week, canneries may operate for 10 hours a day and 60 a week from June 1 to October 15. New York also has an 8–48 hour law, but in canneries a 10-hour day and 60-hour week applies from June 15 to October 15, and permits may be secured to work women 12 hours a day and 66 a week from June 25 to August 5.

Minnesota exempts canneries from the 54-hour law if employment lasts not more than 75 days. Maryland, New Jersey, Ohio, Virginia, and Washington exempt canneries entirely from the State hour laws.

These State hour laws and regulations were in effect before and during the 1938 canning season. The only Federal law affecting hours of employment was the Public Contracts Act, which was confined to firms having Government contracts in excess of $10,000. Canneries with such contracts may employ people more than 8 hours a day or 40 hours a week on Government contracts only if overtime at not less than one and a half times the regular rate is paid.

While crop and market conditions and certain other influences are factors in determining actual hours of work, the hours of operation in an active week in 1938 reflect to some extent the effects of many years under such laws. The California plan of overtime payment for hours in excess of 48 a week has not limited hours for women to 48, though the largest proportion work less than that; rather it has tended to limit the overtime to within 8 hours a week for all but a proportionately few women. Men's hours are not covered by State

regulation, but the shortening of women's hours has a tendency to lower the proportion of men who work long hours as compared with conditions in States without such regulation.

Wisconsin adopted the same system of overtime pay for hours over 9 a day and 54 a week to eliminate needlessly long hours in canneries. Very few women worked overtime on the State's most important crops in 1938. The hours of many men employees were excessive when the pea crop was canned, due unquestionably to the much larger proportion of men than of women employed in pea canning. In Arkansas, which also regulates hours by extra payments, comparatively few women or men were employed beyond the time at which overtime rates for women begin.

New York and Illinois have extended operating hours for women in canneries to 10 a day and 60 a week, New York allowing 12 hours a day and 66 a week on permit. One result of this type of hour regulation is that New York State vegetable canneries hold the record for the longest hours of employment of women in 1938 among all States reporting. Illinois canneries, however, seldom employed women as long as 60 hours during the season. In States that entirely exempt canneries or are without hour regulations, there was a marked tendency to employ a considerable proportion of women over 48 but under 56 hours and a smaller proportion beyond 56 hours.

The many tables on hours worked in the body of the report and the appendix [1] indicate clearly that State regulations requiring overtime pay for women after 48 or 54 hours are more effective in reducing hours of work for women and for men than are limitations placed at 60 hours.

Effect of Public Contracts Act.

The payment of overtime after 8 hours daily or 40 hours weekly is also a provision of the Public Contracts Act for Government contracts of over $10,000. Because California canners were accustomed to pay for hours in excess of 8, as were Washington State canners through union agreements, and Wisconsin canners for overtime in excess of 9 hours, canneries in these three States continued to bid on Government contracts, either directly or through brokers, after the passage of the Public Contracts Act. Reports from other States are that an unwillingness exists among canners to bid for contracts that would bring them under the overtime provisions of the act. Unstandardized Government purchasing practices for subsistence items render it a simple matter to supply canned food to Government agencies and remain outside the present provisions of the Public Contracts Act.

[1] Appendix tables available in the Women's Bureau.

Effect of Fair Labor Standards Act.

The Fair Labor Standards Act was in effect during the 1939 canning season except in the case of canneries in rural communities and within 10 miles of the fields from which the produce was received. While location within an unincorporated community of under 2,500 population (according to the 1930 Census) is definite, relationship to fields from which produce is procured is a variable. The yield in different fields from year to year because of variable weather conditions, differences in market demands, and cannery requirements may cause the distance from cannery to producing fields to change from year to year. This situation, coupled with the belief of canners in incorporated towns adjacent to other canneries in unincorporated areas that the 1939 definition of "area of production" was unfair, threw a cloud of doubt over opinion as to the canneries that were covered by the act. According to the data supplied in the 1939 study, about three-fifths would have been excluded as located in communities of under 2,500 population. This exclusion was reduced to one-third of the seasonal plants when all reporting their produce as obtained from more than 10 miles were eliminated.

The Fair Labor Standards Act permits all canneries covered by the act to work 14 weeks of overtime during which hours in excess of 12 in any one day or 56 in any one week are paid at overtime rates. As has been stated, periods of peak operation are of short duration and seldom exceed 4 weeks, so the period in which long hours are permitted by the act is far beyond the real needs of the canning industry. On the other hand, the peak period of operation results in very long hours for a considerable proportion of the workers on every perishable product in many States. When peas were canned in 1939, hours exceeded 56 for from 7 percent of the workers in Iowa to about 50 percent of those in Minnesota. In tomato and tomato-products canning in 1939 the proportion of workers employed in excess of 56 hours ranged from 5 percent in Arkansas to 47 percent in New York; on corn canning, from 31 percent in Indiana and Minnesota to 56 percent in New York. These figures include canneries within and outside of the areas of production. Division by location of canneries in rural areas or in towns of 2,500 population or more shows little difference in the proportion of workers employed in excess of 56 hours in an active week. In tomato canneries in rural areas, 29 percent of all with hours reported, as compared with 32 percent of those in towns of 2,500 or more, worked in excess of 56 hours. In rural corn canneries 38 percent of the employees, as compared with 35 percent of those in town canneries, worked over 56 hours, whereas in rural pea canneries the proportion with such hours was 43 percent as contrasted with 37 percent in town pea canneries.

While prevailing hours in an active week were longer in 1939 than in 1938, the picture of near-peak operations leads to the conclusion that little success has been attained by canneries in keeping operating hours of all workers within 56, in spite of attempts at planting control and present cold-storage facilities.

Long hours of work are sometimes necessitated by a shortage of labor. In the canneries of every State, on every product, there were many employees who worked under 40 hours in the same week that others worked over 56 hours. The heavy load was carried by only a part of the operating staff. It is a canning practice in almost all plants to hire workers before the crop load arrives and employ them part time, thus insuring an adequate supply of workers for the peak period. There was no indication of any shortage of workers, even for very irregular weeks of employment, though the survey took no accounting of skills required and the availability of skilled workers.

WAGE REGULATIONS

Rates of pay and earnings of cannery employees were influenced by State minimum-wage orders for women in 1938 and by such orders and the Fair Labor Standards Act during the 1939 season. Ten of the States included in the survey have minimum-wage laws, but only States in which the statute has been on the books many years have issued wage orders covering women employed in canneries. These States are Wisconsin, Minnesota, California, Washington, and Arkansas.

Effect of State Minimum-Wage Orders.

Wisconsin and Minnesota minimum-wage commissions provided a fixed minimum rate for experienced women but varied the rate with the size of the community. Other State commissions fixed the same rate for all canneries. Both Wisconsin and California orders make provision for piece-rate payments providing such rates yield to half the experienced women the specified minimum time rate in California, and 3 cents more than the time-rate minimum in Wisconsin. In California, canners must elect to operate under the piece-rate system, whereupon their pay rolls are audited each week to insure compliance with the order.

The influence of these State wage orders that have been in effect many years is reflected in hourly earnings for the 1938 season. Though most Wisconsin pea canneries were in the smaller communities, where a minimum wage of 20 cents an hour is required for canneries, relatively few women were paid so little, the prevailing rates in 1938 being 22½ cents and 25 cents. The rate of 22½ cents was the minimum for canneries in larger communities. Nor did Minnesota pea canneries take advantage of lower minimum rates for their rural communities.

Though most of the pea canneries were in communities of under 3,000 population or 3,000 and under 5,000, where the minimum rates fixed were 24 cents and 27 cents an hour, respectively, the larger numbers of women received 25 cents, 30 cents, 32½ cents, or 35 cents an hour. In contrast, pea canneries in New York, a State with a minimum-wage law but with no rates set for canneries in 1938, paid 20 cents or less to 17 percent of the women employed. In Maryland, without a State minimum-wage law, over three-fourths of the women workers on peas had hourly earnings of 20 cents or less.

In California, two-thirds of the canneries elected to operate on the piece-rate system that guarantees that at least 50 percent of the experienced women workers would earn the time-rate minimum of 33⅓ cents or the difference would be divided among all women workers. As many California canneries were union plants in 1938, their basic minimum rates for women were 42½ cents for time workers and 44 cents for 50 percent of all piece workers. These rates unquestionably raised the level of earnings of California women cannery workers. The effects of the State method of operating a minimum-wage law can be seen clearly in the 1938 earnings distribution. The basic piece-rate system in operation brought about a wide spread in earnings with no concentration at the minimum time or basic piece rate. Ten percent of the women employed on large fruits and 12 percent of those on tomatoes earned less than the minimum rate of 33⅓ cents an hour. Some of these women were especially licensed handicapped workers and learners, but others were women who could not make the State minimum at prevailing piece rates. At the other end of the earnings scale, over 25 percent of the women earned 42½ cents to 44 cents in preparing large fruits, and 30 percent earned such amounts on tomatoes. As many as 20 percent earned at least 53 cents an hour on large fruits.

All wage data assembled in the detailed report reveal that State minimum-wage orders for women workers have raised materially the level of earnings of women cannery employees above that in States without such orders.

When orders fix a flat minimum time rate for all experienced women workers in canneries, such orders set a bottom below which wages do not fall and above which wages rise for large occupational groups rather than individuals, as conditions warrant. The piece-rate system with a guarantee of a basic rate to at least 50 percent of the workers permits a higher basic rate than can be secured on the flat-rate basis but does not operate to set a bottom below which earnings cannot fall. Rather it serves to protect all women from piece rates too low to yield fair amounts to the woman of average speed, and it continues the

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wide spread in earnings that differences in operating abilities of workers bring about. The relative expenditure for the labor of women and men in California canneries exceeds that in canneries putting up the same products in other States.

Effect of Fair Labor Standards Act.

The Fair Labor Standards Act was in effect in the case of all canneries outside the "area of production" in the season of 1939. According to its provisions all workers, regardless of sex, were to be paid at least 25 cents an hour if the cannery was in a community of 2,500 or more population and was more than 10 miles from the fields where the produce was secured.

The immediate effect of this act was to decrease the numbers of workers earning under 25 cents an hour and to raise slightly the total amount paid out to workers.

In the same tomato-canning firms in Indiana the wage bill for 1939 was greater by about 4 percent than that for 1938 and the number of workers earning under 25 cents decreased from 14 percent to 5 percent. In Maryland tomato canneries the proportion earning under 25 cents was reduced from 51 percent to 29 percent and the wage bill was raised by 5 percent. In Illinois the change was from 17 percent to 12 percent earning under 25 cents on tomatoes. In both New York and Wisconsin, while 19 percent and 43 percent, respectively, earned less than 25 cents on tomatoes in 1938, in 1939 almost no one earned less than 25 cents. Corresponding decreases occurred on other products and in various States.

Unaffected by the act were canneries in communities of under 2,500 that stated they secured all their produce from a distance of not more than 10 miles. Over 90 percent of the employees in Arkansas and Virginia tomato canneries earned less than the minimum, and almost three-fourths of those in Texas did so, though most Texas canneries were outside the area of production as defined by the Administrator. Forty-seven percent of Maryland tomato workers in towns of under 2,500 earned less than 25 cents, though in this State, too, not all canneries secured their tomatoes solely within a 10-mile radius.

Canneries paying more than the minimum rate set by the Fair Labor Standards Act did not reduce rates whether or not they came under the wage provisions of the act. As a result, wide variations still occur in the amount paid to workers canning the same product in different States.

On tomato and tomato products processed inside the area of production the range in average earnings of the workers in 1939 was from 15.5 cents an hour in Arkansas to 30.3 cents in Illinois. In plants outside the production area the range was from 21.2 cents in Texas

tomato canneries to 47.3 cents in California tomato canneries. On corn canning the range of earnings as between States and between canneries included and excluded by the act was narrow. But on peas, in canneries outside the provisions of the act, average hourly earnings ranged from about 14 cents in Virginia to about 50 cents in Washington State. In pea canneries within the coverage of the act the rates varied from nearly 26 cents in Arkansas and Virginia, and 27 cents in Maryland, to more than 44 cents in Washington State. On green and wax beans, canneries that come under the act paid rates yielding average earnings of 20 cents in Texas, approximately 25 cents in Arkansas, Illinois, and Maryland, and over 46 cents in California and Washington.

Competition is possible under such variations in wages partly because of differences in plant efficiency and in product quality, but also because labor costs are only a small part of total operating costs in vegetable canning. The relation of labor costs to total costs varies not with size of community nor with the low- or high-wage levels of States but between canneries in the same State. In spite of variations there is a marked tendency for this cost relation on the same product to mass at about similar proportions in many canneries. For example, on tomatoes and tomato products, labor cost frequently was between 9 percent and 12 percent of total costs; in Wisconsin pea canneries the labor costs usually were from 8 percent to 12 percent of the total; on corn, concentration was at 10 percent but under 12 percent of total cost. Labor costs on canning small fruits usually were low, but California labor costs on large fruits often approximated 25 percent of total costs.

While data on 1939 labor costs were limited, as books had not been closed at the time the plants were visited, the indications are that there was no general increase over 1938 in the proportion labor costs were of total costs.

For the 1940 canning season there is required by the Fair Labor Standards Act an advance in the minimum rate for all workers outside the area of production from 25 cents to 30 cents an hour. This advance will increase the rates for a material proportion of cannery workers in all States but California, Oregon, and Washington, in which State wage orders have set minimums of respectively 33⅓ cents, 35 cents, and 37½ cents an hour.

UNEMPLOYMENT COMPENSATION LAWS

Unemployment compensation laws in the 13 canning States included in the 1938 survey vary widely as to employer coverage, employee eligibility requirements, and methods of determining the amounts of benefit payments. Five States included have special provisions for seasonal employment that affect the canning industry.

Employer coverage is based either on the number of weeks in which a specific number of workers are employed or on the numbers employed. As of December 1939, nine States based employer coverage on employment varying from one or more to eight or more persons in each of 20 weeks. Wisconsin employers were covered when they employed six or more workers in each of 18 weeks, Iowa employers eight or more workers in each of 15 weeks, while the New York law includes all employers of four or more persons on each of 15 days. The Ohio law covers any employer giving work to three or more persons for any length of time. Under these laws, 32 percent of Iowa canners reporting in the survey, 33 percent of those in Virginia, 55 percent in Maryland, 56 percent in Indiana, 70 percent in Wisconsin, 83 percent in Illinois, 92 percent in California, and 100 percent in the six other States were included under existing State unemployment compensation laws.

Minnesota, New York, Ohio, Virginia, and Washington make special provisions for seasonal workers, but they define such workers variously. These provisions usually limit unemployment benefits to the seasonal period of operation.

Employee eligibility for unemployment benefits is determined in all 13 States on one of two bases: Either the wages received in some specified past period, as a multiple of the weekly benefit amount or a flat amount, or the duration of employment. According to records made available in the survey the proportion of workers covered is as varied as the proportion of canners. For example, only 7 percent of the workers employed during the year in Illinois canneries were eligible though 83 percent of the firms had been covered as compared with 25 percent of the employees in Washington State.

The fact that almost two-thirds of the more than 161,000 cannery workers reporting weeks worked in 1937 were employed less than 8 weeks makes very difficult the application of unemployment compensation laws to cannery workers as such. While many men employees had work elsewhere during the year, their chief employment was on farms or at odd jobs in the towns. As the principal source of the woman labor supply was the town, village, or farm housewife and her daughter, employment opportunities in other fields for these women necessarily were limited.

Cold-Pack and Frosted Fruits and Vegetables

Cold-packed fruits for use of jam and preserve manufacturers, pie bakers, ice-cream makers, and soda-fountain supply houses comprised less than 1 percent of the total value of all canned and preserved fruits and vegetables, according to the 1937 Census. While some firms engage solely in this type of preserving for wholesale consump-

tion, other firms do cold preserving with other canning operations or as a part of fresh-fruit packing or apple evaporating.

Frosted fruits and vegetables, that is, produce frozen quickly at temperatures from zero to 50 degrees below to preserve their original fresh condition and packaged for the retail market, constituted less than 1 percent of the total value of all canned and preserved products in 1937 but have increased materially in volume and value in the last few years. Today canners perform all preparation and freezing operations, so these products have become a part of the canning industry, though in many cases they are marketed by firms holding the quick-freeze patents.

The processes of preparing a fruit or vegetable for preserving by cold are the same as those used in preparing the specific product for canning. Canners today prepare all the frosted fruits and vegetables and part of those that are cold packed. Just as the States of Washington and Oregon, the most important producers of cold-pack and frosted fruits and vegetables, include plants making these products with canneries under their respective State minimum-wage laws, so Federal labor legislation may be considered as having the same general application to plants engaging in preserving fruits and vegetables by cold as to canneries preserving foods by means of heat. Attention need only be called to the fact that every effort is exerted to quick-freeze berries, peas, and other perishable foods as soon as possible after packing, and this has a tendency to increase the numbers working long hours for the brief freezing period.

The two leading Northwestern States were not affected by the 25-cent minimum of the Fair Labor Standards Act in 1939, and will be unaffected by the 30-cent minimum in 1940, as their State minimum-wage rates are higher than these amounts. With one exception, in other States the concentration of earnings at 25 cents an hour in 1939 would appear indicative of Fair Labor Standards Act influence.

Application of Labor Legislation to the Citrus Canning Industry

Conditions surrounding the citrus canning industry are markedly different from those affecting deciduous-fruit canning. Citrus fruit and juice canning is highly centralized; by far the largest volume is done in limited areas in Florida, Texas, and California. Its operations cover an extended period of each year. In Florida the canning period runs from December to July, with possibly a month's variation at either end in different years; in 1939 the average period of canning was 30 weeks. The season is shorter in Texas, generally from January to April or May; in 1939 it averaged 16 weeks in the canneries reporting. California, whose canned citrus production is but 10 percent of the total, operates on citrus juices the year around.

Oranges and grapefruit may be stored on the trees, weather permitting. As culls are largely used for canning, their arrival at the cannery may be regulated in relation to plant capacity. Though a seasonal industry, citrus canning can be operated without peak loads under normal weather conditions.

State hour or minimum-wage regulations have had little part in determining labor conditions in the citrus-canning industry. Florida, the most important citrus-canning State, has no State hour or wage law. Texas has a 54-hour law applicable to women, with provision for longer hours, at double the rate, in "extraordinary emergencies"; however, as Texas canneries put up juices primarily, on which men only are employed as productive workers, the women in Texas citrus plants are few. California has had wage and hour laws for women for many years, but her canned citrus production is largely lemon and orange juice and women are employed in small numbers only on packaging by-products.

In the main, therefore, the Fair Labor Standards Act was the first wage and hour regulatory measure applicable to the citrus canning industry.

CITRUS CANNING AND THE FAIR LABOR STANDARDS ACT

Citrus canneries in Florida and Texas included in the survey were situated almost equally in rural communities and in incorporated towns of 2,500 population and over, while all California plants were in incorporated areas. However, only a fourth of the canneries in rural areas secured all their citrus fruit in the "immediate locality"; that is, not more than 10 miles from the cannery. Consequently, most of the citrus plants surveyed were subject to the Fair Labor Standards Act in their 1939 season.

Hour Regulations.

According to the act, canneries outside the area of production are permitted to work 14 weeks of 12-hour days and 56-hour weeks, with overtime pay for hours beyond these. In a sample period of active operation in citrus-juice plants, almost two-fifths of the employees worked in excess of 56 hours. The overtime was most general in Texas, where almost half the workers were employed over 56 hours. In Florida the proportion was two-fifths, and in California it was but one-sixth of the total. While overtime was being worked by some employees, as many as 31 percent worked less than 40 hours. Men are used almost entirely in these plants to handle large quantities of fruit, tend the juicing machines, truck the cars, and dispose of the peel.

In plants canning only citrus-fruit sections, large numbers of women are employed to do the hand operations of cutting apart segments and

placing them in cans. In these plants the proportion employed over 56 hours dropped to 14 percent in Florida and to 36 percent in Texas. Where firms in Florida canned both sections and juice, 24 percent of all employees worked over 56 hours in an active canning week, though about a fourth of the employees worked under 40 hours in the same week.

Hours worked did not depend on the size of the community in which the plant was situated. In Florida a far larger proportion of workers were employed over 56 hours in rural citrus-juice plants than in plants in towns of 2,500 or more. There was little difference in the hours worked in rural areas and in towns in Florida plants canning citrus-fruit sections.

In the 45 citrus plants included in the survey there were only 3, all in Texas, that employed no one over 56 hours in the 1939 season. Two California plants paid on a semimonthly basis, making it impossible to determine weekly overtime. In the 36 citrus canneries covered by the Fair Labor Standards Act and in which people were employed over 56 hours in the active week surveyed, 2 Florida and 2 California firms paid time and a half for work in excess of 44 hours, 4 Texas firms paid time and a half for work in excess of 56 hours, and 28 firms paid no higher rate for overtime work.

Wage Regulations.

The Fair Labor Standards Act brought about a marked concentration of earnings at the 25-cent minimum in citrus-fruit plants, juice plants, and plants canning both products. However, a sixth of the workers on citrus fruit and one-fifth of those on citrus fruit and juice in Florida canneries in towns of 2,500 and over did not earn the minimum, and three-tenths of the workers in rural Texas juice canneries subject to the act earned less than the 25-cent rate. Most of the workers earning under 25 cents in Florida canneries were women, whereas in Texas practically all paid such amounts were men. In California earnings began at 25 cents; the few women employees earned 35 cents or more, whereas the larger number of men employed earned at least 40 cents.

The proportion of workers in the plants reporting whose earnings would be raised in the 1940 season to the 30-cent minimum of the Fair Labor Standards Act would be about 55 percent in citrus-juice plants, 63 percent in fruit canneries, and 70 percent in canneries putting up both juice and fruit.

Application of Labor Legislation to the Dried-Fruit Industry

The dried-fruit industry is concerned with the recleaning, processing, and packaging of sun-dried fruit delivered to the packing house and with the preparing and evaporating of fresh apples at the packing

house. While its raw materials are seasonal and must be cleaned before spoilage takes place, the urgency that controls the canning and freezing of fruit is not a factor in packaging products already dried or in preparing apples for evaporation. Without peak load there is no short period of peak operation as in canning, though there is a busy fall period with pay-roll increases for from 5 to 8 weeks.

California plants that pack many kinds of dried fruit operate the greater part of the year; others pack a few varieties for a short period only. In New York the apple-evaporating season runs from August into December, in Washington from the middle of October to April. No plant reporting operated less than 10 weeks, and the majority in California packed for three-fourths of the year or longer.

HOUR REGULATIONS

Effect of State Hour Laws.

State hour regulations for women and minors have been applicable to California dried-fruit packing for many years. In Washington employees are exempt from the State maximum-hour law, but a wage regulation requires the payment of overtime after 10 hours of work. New York evaporated-apple plants are believed subject to the State's 8–48 hour law, as no special exemption is granted them in the law.

The effect of these State regulations is seen clearly in the dried-fruit industry. During an active week in the fall of 1938 nearly 70 percent of the women employees in reporting plants in California worked less than 48 hours, and 2 percent worked over 48 hours. In New York the hours for most women fell between 44 and 48. However, in Washington 39 percent of the women employees worked in excess of 48 hours, but under 56, in an active packing week.

Effect of Fair Labor Standards Act.

The Administrator of the Fair Labor Standards Act defines as seasonal industries those "handling, extracting, or processing of materials during a season or seasons occurring in regularly, annually recurring part or parts of the year" and producing "50 percent or more of their annual output in a period or periods amounting in the aggregate to not more than 14 work weeks." Such industries may employ workers 12 hours a day and 56 hours a week, after which overtime rates must be paid. While weekly production records were not available for all plants, California's dried-fruit-plant pay rolls indicate that 20 of the 27 plants reporting paid out half their labor bill in 14 weeks, the remaining 7 paying from 40 percent to 48 percent in such period. It would appear, then, that the majority of California dried-fruit plants would be considered seasonal under the

definition just cited. All plants receiving fresh apples for evaporation would be subject to the same provisions as canning plants, that is, by being exempt from the Wage and Hour Law if within the "area of production" or by a grant of exemption during 14 weeks from the maximum-hour provisions of the act.

A comparison of the number of employees who worked specific hours in 1938 and 1939 was made for dried-fruit plants. The proportion working over 56 hours in California houses was reduced from 12 percent in 1938 to 3 percent in 1939; the number of employees in California plants working over 44 hours was reduced from 64 percent in 1938 to 12 percent in 1939. In Washington apple-evaporating plants, 8 percent worked over 56 hours in 1939 as against 15 percent in 1938. New York firms employed 11 percent in 1939, in contrast to 20 percent in 1938, more than 56 hours a week.

WAGE REGULATIONS

Effect of State Minimum-Wage Regulations.

The California minimum-wage rate is 33⅓ cents an hour for experienced women and minors; 4 weeks are allowed in which to become experienced. The Washington minimum-wage rate is 27½ cents. New York's Industrial Commission has not as yet set a rate for dried-fruit plants.

About one-eighth of the women in California dried-fruit plants earned exactly the State minimum of 33⅓ cents an hour, while 2 percent earned smaller amounts and three-fourths earned 40 cents and over. In Washington there was no concentration at the State minimum; women employees earned from under 10 cents to 50 cents an hour. Practically all women whose earnings were reported in New York evaporated-apple plants earned 25 cents an hour in 1938.

Effect of Fair Labor Standards Act.

The State minimum-wage rate and union agreements in effect in California called for higher wage rates in 1939 than those required by the Fair Labor Standards Act. Practically all employees in California packing houses continued to earn more than 30 cents an hour, almost three-fifths receiving 50 cents or more. In Washington's rural apple plants more than one-fourth of the workers earned less than 30 cents, and 8 percent earned even less than 25 cents. Plants in towns of 2,500 population and over in Washington paid more than three-fifths of their workers 30 to 35 cents an hour; no one in town plants received under 30 cents. Practically all New York plants were in rural communities. About one-eighth of their employees earned under 25 cents an hour, and more than seven-tenths earned exactly 25 cents, in the 1939 season.

UNEMPLOYMENT COMPENSATION

The widely differing employer-coverage provisions in the unemployment compensation laws of California, New York, and Washington result in complete coverage of the evaporated-fruit plants in New York, almost complete coverage of all in California, and two-thirds coverage of those in Washington. New York and Washington have special provisions for seasonal industries and workers. In New York a seasonal worker, defined as one ordinarily engaged in a seasonal industry and not engaged in any other work, is entitled to unemployment compensation during only the longest seasonal periods of operation, and duration of benefits is modified in proportion to the longest seasonal period. In Washington a seasonal worker, defined as one who has a base year credit of which at least 80 percent has been earned in seasonal employment, is entitled to benefits only during the seasonal period of operation.

Employee eligibility is determined in California and Washington on a flat amount that must have been earned during the four quarters preceding the benefit period; in New York, on 25 times the weekly benefit earned in the calendar year. If all California dried-fruit plants were included under the law, only 31 percent of their employees had sufficient year's earnings to entitle them to coverage. Had there been complete coverage of employers in Washington, there would have been but 38 percent coverage of employees. Available data do not permit determination of the New York employee coverage.

The Fair Labor Standards Act and the Hawaiian Pineapple Canning Industry

Hawaii has seven pineapple canneries, three of which together pack 80 percent of the output. A recent survey covered conditions in two large and two small plants, respectively, in a city and in a small rural community. All were operating under the terms of the Fair Labor Standards Act.

From the end of June to the middle of August, Hawaiian pineapple canneries operate with two and three shifts a day. While peak and near-peak employment occurred in 8 weeks in 1938, the pay rolls were below 50 percent of the maximum in 42 weeks, in practically all of these less than 25 percent of the maximum.

The work plan of all canneries is based on an 8-hour day for 5 days a week, with 4 hours on Saturday, or 44 hours a week in conformity with the Fair Labor Standards Act. During a week in the heaviest canning period of the 1939 season, 24 percent of the women and 57 percent of the men in the cannery departments worked more than scheduled hours; in the warehouse about 20 percent of the men and

3 percent of the women worked more than 44 hours. Even in this peak week, however, a material proportion of the employees worked under 40 hours.

In the Honolulu canneries the minimum hourly rate for women was 30 cents, for men 37.5 cents; in the Maui canneries it was 26 cents for women, 32.5 cents for men. As an actual condition, one-seventh of all the women whose earnings were reported were paid less than 30 cents an hour, though very few men earned such amount in the 1939 season. Women's earnings were concentrated at 30 and under 35 cents, while over 70 percent of the men earned 35 and under 45 cents. Time over 44 hours usually was paid for at time and a half and double time.

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